

MIAMIBEACH

OFFICE OF THE CITY MANAGER

NO. LTC

031-2016

LETTER TO COMMISSION

TO: Mayor Philip Levine and Members of the City Commission

FROM: Jimmy L. Morales, City Manager

DATE: January 22, 2016

SUBJECT: Noise Report: Q4-2015 (October – December 2015)



The purpose of this Letter to Commission (LTC) is to provide you with information on the Quarterly Noise Report for the above referenced time period.

I. Background

The report reflects Code Compliance Department's (Code) enforcement efforts regarding noise-related activity for the period of October 1, 2015 through December 31, 2015. The report and analysis is made in accordance with the requirements reflected in the 2008 Noise Administrative Guidelines.

The analysis includes the following attachments:

- Attachment A: Data table for all noise cases handled by Code for Q4-2015.
- Attachment B: Data table for commercial noise cases handled by Code for Q4-2015.
- Attachment C: Disposition of noise cases appealed, presented, or scheduled to be heard at Special Master Hearings for Q4-2015.

II. Summary

The analysis is based on data obtained from Permits Plus, the database utilized by Code to track its cases. According to Permits Plus, during Q4-2015 there were a total of 1,047 total noise cases opened by Code. Of these:

- 124 cases were either routed or directly handled by the Miami Beach Police Department (MBPD), either because the complaint was received during hours when Code is not on duty or MBPD addressed proactively;
- 21 cases were canceled by the complainant;
- 17 cases were voided due to error, or the address provided was inaccurate and/or non-existent, and the caller was anonymous; and
- Four were deemed to be duplicate complaints (multiple complaints received for one location/incident).

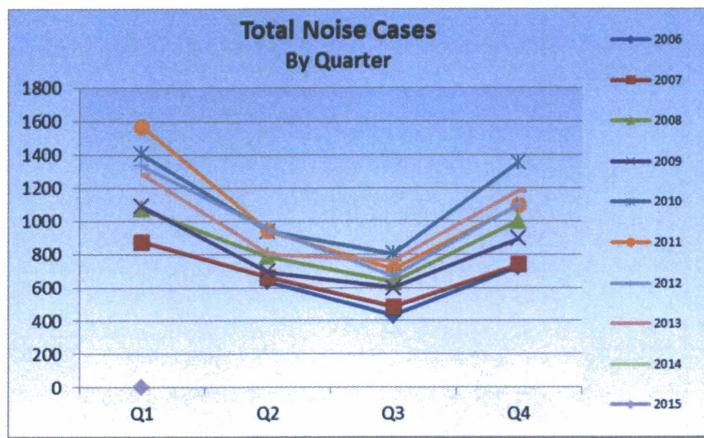
Subtracting the above 166 cases from the total number of noise cases opened in Q4-2015 yields a total of 881 cases with a disposition where a Code Compliance Officer (CCO) assessed the noise-related issue. Of these, 174 resulted in either a Warning or a Violation carrying a fine, resulting in an aggregate noise validity rate of **19.8%**.

III. Analysis

Data presented in this report conforms to the requirements of the 2008 Noise Administrative Guideline and includes the total number of noise complaints, number of cases addressed proactively, analysis of noise cases by type (commercial, residential, or other), the time of day the noise complaint/case took place, the day of the week and other relevant information including Special Master case disposition.

A. All Noise Cases

Historical analysis of noise cases by quarter reflects a consistent pattern, where Q4 has the second highest number of noise cases within any calendar year. This pattern is in line with special events and other festivities that are known to make noise and that take place at the end of the year. The chart below reflects the quarterly trend over the past ten years.



A requirement of the Administrative Order is the data collection and analysis of noise cases by property type. The table below provides this information for Q4-2015.

BREAKDOWN OF CASES HANDLED BY CODE BY LOCATION TYPE		
October 2015 – December 2015		
RESIDENTIAL	492	55.8%
COMMERCIAL	259	29.4%
OTHER	130	14.8%
TOTAL	881	100.0%

The information reflected in the table above is consistent with all previous reports, without exception, where more than half of all noise cases take place in residential property.

B. Commercial Cases

During Q4-2015, there were a total of 492 noise cases that took place in residential properties, and 259 cases in commercially zoned properties (which includes hotels, condo / hotels, bars, restaurants, retail space and commercial construction sites). A detailed breakdown of the 259 commercial cases is reflected in Attachment B. It is of interest to denote that peak commercial related noise complaints peak on Saturdays, between the hours of 7:00 AM and 11:00 PM.

IV. Validity Rates

Article IV – Section 46-152 of the City of Miami Beach Code reflects that for a noise complaint to be identified as valid, it must meet the criteria of being “excessive, unusual, or unnecessary”; and between 11:00 PM and 7:00 AM amplified noise may be deemed valid if it is “plainly audible at 100 feet.” However, there are multiple reasons why a noise complaint may not be deemed valid. The table below provides the specific reason the responding CCO identified the noise complaint to be not valid for Q4-2015.

ALL CASES – NOT VALID

	TOTALS	Music/Noise lowered prior to arrival per complainant	No Access / No Access Code	No Noise Upon Arrival	Exception Granted	Not a Code Issue	Music/Noise Not Loud nor Excessive	Not Loud / Excessive AND After 11PM - Not audible at 100ft.
	707	21	15	329	7	5	311	19
PERCENTAGES		3.0%	2.1%	46.5%	1.0%	0.7%	44.0%	2.7%

According to the table above, in 90.5% of the cases identified as not valid, the noise complaint either failed to meet the criteria of being excessively loud, or there was no noise upon arrival by the CCO.

V. Response Time

The chart below provides data on the response time by the CCO. It reflects the time period when a noise complaint is received by Dispatch (operated by the Parking Department), and the time the CCO arrives to the scene. The collected data reflects the aggregate average response time during Q4-2015 was 20 minutes and 30 seconds. The average was developed from a total of 827 noise cases.

Further analysis reflects a 6 minute 48 second difference between the Residential valid vs. non-valid noise complaints. This difference appears to reflect a correlation between response time and validity rate. However, no correlation is reflected in commercial noise cases.

Average Time for Code Officer to Arrive (Q4-2015)						
Number of Cases*	Establishment Type	Average Time to Officer's Arrival	Status	Number of Cases*	Average Time from Call Received by Dispatch to Code Officer's Arrival	
827	Residential	0:23:01	VALID	86	0:18:17	
			NON-VALID	382	0:24:05	
	Commercial	0:15:40	VALID	32	0:15:36	
			NON-VALID	220	0:15:40	
	Other	0:20:57	VALID	22	0:17:41	
			NON-VALID	85	0:21:48	
All Cases		0:20:30	VALID	140	0:17:35	
			NON-VALID	687	0:21:06	

*Average Time Calculated using only those cases with valid time data for both "Time Call Received by Dispatch" and "Time of Arrival by Code Officer".

Thus, notwithstanding the statistical inference of a quicker response time, Code continues to make an effort in responding to noise complaints within a 15-20 minute window.

VI. Major / Special Events

During Q4-2015, there were multiple Special Events that were associated with music, which collectively may have had an impact on the number of noise complaints. This included several rooftop events associated with Art Basel and with New Year's Eve. In addition, there were also seven (7) noise exemptions granted for construction activity due to engineering necessity.

VII. Special Master Appeal Hearings

In instances where a noise violation is issued, cases may be appealed before a Special Master as prescribed in Florida Statute 162 and Miami Beach Code of Ordinances Section 30. Attachment C reflects the disposition or the status of noise-related violations before the Special Master for cases during Q4-2015.

During this period, there were 24 noise-related cases, 16 which have been scheduled but have not yet been heard. Below is the disposition of the remaining eight cases:

- Three cases were adjudicated guilty;
- Two were dismissed for failing to meet the "clear and convincing" standard of evidence;
- One was reduced to a Written Warning; and
- Two were removed from the docket and resolved through Agreed Orders.

Code Administration continues to identify areas of improvement, one of which is ensuring that all collected evidence presented at Special Master hearings is handled in a professional manner and that the presented evidence is clear and convincing.

VIII. Conclusion

Noise continues to be one of the top quality of life issues addressed by Code. Whether noise is the byproduct of a celebratory process, special events or other phenomena, Code continues to enforce noise regulations in a consistent and equitable manner.

In addition to the future implementation of technology, which includes improved hardware and software with greater data accessibility in the field and the use of Body Worn Cameras (BWCs), Code continues to enhance the training of both newly hired and more experienced CCOs in order to raise the bar in terms of performance, productivity and professionalism.

JLM/SMT/HC/RSA

Attachments

- Attachment A: Noise Case Data, Q4-2015
- Attachment B: Commercial Noise Case Data, Q4-2015
- Attachment C: Special Master Case Disposition Summary, Q4-2015

ATTACHMENT A - Code Compliance

ALL CASES
Noise Data 10/01/2015 - 12/31/2015 (Q4-2015)

Total Number of Noise Complaint Cases Opened/Calls Received

Total Cases Opened	Less Voided, Canceled, Duplicate Complaints, Complaints not Applicable to Code Compliance	Total with Dispositions	Code or PD Initiated (Proactive)	Complaint Calls Received
1,047	166	881	8	873

Disposition of All Noise Cases

Type	#
Total Cases	1,047
Canceled**	21
Voided*	17
Duplicate Complaint	4
Not Applicable to Code	0
Referred to PD	124
Total Valid and Non-Valid Cases	881
Valid Cases	174
Non-valid Cases	707

*Voided cases are cases that were entered in error, etc.

**Cancelled calls are cases canceled by the complainant prior to a Code Officer's arrival

Valid Violation Breakdown

Total Cases	Number of Cases	Percentage of All Cases	Valid	Non-Valid
			Number of Cases	Percentage of Cases
Residential	492	55.8%	100	20.3%
Commercial	259	29.4%	36	13.9%
Other	130	14.8%	38	29.2%
Unknown	0	0.0%	0	-
Totals	881	100%	174	19.8%
				80.2%

Residential = Apt, Condo, Single Family

Commercial = Bar, Club, Hotel, Hotel-Condo, Restaurant, Retail, Constr-Com

Other = Bandshell, Beach, Public Property, etc.

Noise Cases by Type of Establishment

Total Cases	Number of Cases	Percentage of All Cases	Valid Cases	Non-Valid Cases
			Number of Cases	Percentage of Cases
APT	234	26.6%	28	3.2%
BAR	40	4.5%	2	0.2%
CLUBS	4	0.5%	0	0.0%
CONDOS	111	12.6%	24	2.7%
CONDOS-HOTEL	12	1.4%	2	0.2%
HOME	147	16.7%	48	5.4%
OTHER	130	14.8%	38	4.3%
RESTAURANT	135	15.3%	15	1.7%
RETAIL	64	7.3%	16	1.8%
UNKNOWN	0	0.0%	0	0.0%
Totals	881	100%	174	19.8%
				80.2%

Residential = Apt, Condo, Single Family
 Commercial = Bar, Club, Hotel, Hotel-Condo, Restaurant, Retail, Constr-Com
 Other = Bandshell, Beach, Public Property, etc.

Total Cases	Number of Cases	Percentage of All Cases	Valid Cases	Non-Valid Cases
			Number of Cases	Percentage of Cases
APT	234	26.6%	206	23.4%
BAR	40	4.5%	38	4.3%
CLUBS	4	0.5%	4	0.5%
CONDOS	111	12.6%	87	9.9%
CONDOS-HOTEL	12	1.4%	10	1.1%
HOME	147	16.7%	99	11.2%
OTHER	130	14.8%	92	10.4%
RESTAURANT	135	15.3%	120	13.6%
RETAIL	64	7.3%	3	0.3%
HOTEL	64	7.3%	48	5.4%
UNKNOWN	0	0.0%	0	0.0%
Totals	881	100%	174	19.8%
				80.2%

Noise Cases by Noise Type

Noise Type	TOTALS	Valid Cases	Non-valid Cases
LOUD MUSIC	610	69.2%	104
LIVE ENTERTAINMENT	4	0.5%	0
BARKING DOG	65	7.4%	7
CROWD NOISE	0	0.0%	0
CONSTRUCTION	191	21.7%	58
OTHER	0	0.0%	0
HONKING CARS/ALARMS	11	1.2%	5
Totals	881	100%	174
		19.8%	707
			80.2%

Call Time of Day / Day of Week

ALL CASES (VALID AND NON-VALID)

	Total	7a - 11p	11p - 7a (of the following morning)
Monday	72	8.2%	49
Tuesday	93	10.6%	68
Wednesday	104	11.8%	78
Thursday	96	10.9%	65
Friday	158	17.9%	79
Saturday	217	24.6%	124
Sunday	141	16.0%	107
Totals	881	100%	570
		64.7%	311
			35.3%

VALID

	Total	7a - 11p	11p - 7a (of the following morning)
Monday	6	3.4%	6
Tuesday	16	9.2%	11
Wednesday	28	16.1%	21
Thursday	24	13.8%	17
Friday	34	19.5%	21
Saturday	42	24.1%	27
Sunday	24	13.8%	18
Totals	174	100%	121
		69.5%	53
			30.5%

NON VALID

	Total	7a - 11p	11p - 7a (of the following morning)
Monday	66	9.3%	43
Tuesday	77	10.9%	57
Wednesday	76	10.7%	57
Thursday	72	10.2%	48
Friday	124	17.5%	58
Saturday	175	24.8%	97
Sunday	117	16.5%	89
Totals	707	100%	449
		63.5%	258
			36.5%

Call Time of Day - Residential vs Commercial

	Total	7a - 11p	11p - 7a (of the following morning)
RESIDENTIAL	492	55.3%	323
COMMERCIAL	259	29.4%	148
OTHER	130	14.8%	99
UNKNOWN	0	0.0%	0
Totals	881	100%	570
		64.7%	311
			35.3%

Breakdown of Calls with Identified Complainants and with Anonymous Complainants					
	Total Cases	Valid Cases	19.8%	Non-valid Cases	80.2%
Totals	881	174	19.8%	707	80.2%
Anonymous Complainant	563	85	9.6%	478	54.3%
Anonymous with Contact made	37	10	1.1%	27	3.1%
Contact Information Provided	273	71	8.1%	202	22.9%
Internal	8	8	0.9%	0	0.0%

ATTACHMENT B - Code Compliance**COMMERCIAL NOISE CASES****Noise Data 10/01/2015 - 12/31/2015 (Q4-2015)****Total Number of Noise Complaint Calls Received**

Total Commercial Cases Opened	Less Code or PD Initiated (Proactive)	Less Voided, Canceled, Duplicate Complaints, Complaints not Applicable to Code Compliance	Complaint Calls Received	Total Cases Handled by Code (\Valid and Non-valid only)
260	3	1	256	259

Disposition of All Commercial Noise Cases

Type	#	%
Valid Cases	36	13.9%
Non-Valid Cases	223	86.1%
<i>Total Valid and Non-Valid Cases =</i>	259	100%

Valid Violation Breakdown

Verbal	2	5.6%
Written Warning	19	52.8%
Violation	15	41.7%
Total Valid Cases	36	100%

Noise Cases by Type of Establishment

Location Type	Totals	% of Commercial Cases (By Establishment Type)	Valid	Non-Valid
BAR	40	15.4%	2	0.8%
CLUBS	4	1.5%	0	0.0%
CONDO-HOTEL	12	4.6%	2	0.8%
RESTAURANT	135	52.1%	15	5.8%
RETAIL	4	1.5%	1	0.4%
HOTEL	64	24.7%	16	6.2%
Total	259	100%	36	13.9%
			223	86.1%

Noise Cases by Noise Type

Noise Type	Totals	% of Commercial Cases (By Type of Noise)	Valid	Non-Valid
LOUD MUSIC	234	90.3%	28	10.8%
LIVE ENTERTAINMENT	1	0.4%	0	0.0%
BARKING DOG	2	0.8%	0	0.0%
CROWD NOISE	0	0.0%	0	0.0%
CONSTRUCTION	17	6.6%	5	1.9%
OTHER	0	0.0%	0	0.0%
HONKING CARS/ALARMS	5	1.9%	3	1.2%
Totals	259	100%	36	13.9%
			223	86.1%

Time of Day / Day of Week of Call

ALL CASES (VALID AND NON-VALID)		Total	7a - 11p	7a - 11p (of the following morning)	11p - 7a (of the following morning)
Monday	24	9.3%	16	6.2%	8
Tuesday	29	11.2%	18	6.9%	11
Wednesday	30	11.6%	17	6.6%	13
Thursday	30	11.6%	14	5.4%	16
Friday	43	16.6%	18	6.9%	25
Saturday	57	22.0%	33	12.7%	24
Sunday	46	17.8%	32	12.4%	14
Totals	259	100.0%	148	57.1%	111

VALID

		Total	7a - 11p	7a - 11p (of the following morning)	11p - 7a (of the following morning)
Monday	1	2.8%	1	2.8%	0
Tuesday	1	2.8%	1	2.8%	0
Wednesday	5	13.9%	3	8.3%	2
Thursday	6	16.7%	4	11.1%	2
Friday	6	16.7%	4	11.1%	2
Saturday	10	27.8%	7	19.4%	3
Sunday	7	19.4%	4	11.1%	3
Totals	36	100.0%	24	67%	12

NON-VALID

		Total	7a - 11p	7a - 11p (of the following morning)	11p - 7a (of the following morning)
Monday	23	10.3%	15	6.7%	8
Tuesday	28	12.6%	17	7.6%	11
Wednesday	25	11.2%	14	6.3%	11
Thursday	24	10.8%	10	4.5%	14
Friday	37	16.6%	14	6.3%	23
Saturday	47	21.1%	26	11.7%	21
Sunday	39	17.5%	28	12.6%	11
Totals	223	100%	124	56%	99

Breakdown of Calls with Identified Complainants and with Anonymous Complainants

	Total Cases	Valid Cases	Non-valid Cases
Total Complaints	259	100%	36
Anonymous Complainant	200	77.2%	18
Anonymous with Contact made	6	2.3%	2
Contact Information Provided	50	19.3%	13
Internal (Proactive)	3	1.2%	3

ATTACHMENT C**Information on Disposition of Cases by Special Master and by Judicial**

(Q4-2015)

Date of Violation	Request Filed	Special Master Case Number	Code Case Number	Address	Name	Status
03/15/2015	03/23/2015	JC15000352	CE15006253	45 E STAR ISLAND DR	The Little Lighthouse Foundation Inc	SM 1/28/2016
03/14/2015	03/23/2015	JC15000353	CE15006251	45 E STAR ISLAND DR	The Little Lighthouse Foundation Inc	SM 1/28/2016
03/26/2015	06/17/2015	JC1500493	CE15006804	2377 COLLINS AVE	2377 COLLINS RESORT LP	SM 11/5/2015 Notice of violation and fine under case CE15006804 not proven by clear and convincing evidence to be valid. Case DISMISSED.
07/04/2015	07/10/2015	JC15000545	CE15010931	8420 BYRON AVE	CLARO OMAR FRAGA LOPEZ	SM 11/5/2015 Notice of violation and fine proven by clear and convincing evidence. Adjudicated GUILTY. Fine of \$250 shall be paid by 12/7/2015.
08/06/2015	08/11/2015	JC15000643	CE15011948	1628 COLLINS AVE	NINE BEACH, LLC	SM 10/1/2015 Violator was not present. Based on failure to appear, this appeal is denied. Adjudicated GUILTY of First Offense.
08/07/2015	08/13/2015	JC15000652	CE15011974	4041 COLLINS AVE	CROWN MIAMI HOTEL OWNER LLC N/O/A THE THOMPSON HOTEL	Attorney for this case withdrew the appeal. Case removed from agenda for 1/7/2016.
08/24/2015	08/25/2015	JC15000653	CE15012620	1255 WEST AVE	1247 BAYVIEW DEV CORP DBA BIKINI HOSTEL CAFE& BEER	SM 01/07/2016 - Based on the testimony from both sides, a prior Written warning was dismissed therefore case CE15012620 reduced to a Written warning.
08/16/2015	08/21/2015	JC15000654	CE15012300	2000 COLLINS AVE	BAGATELLE MIAMI LLC	SM 02/04/2016
09/20/2015	09/22/2015	JC16000012	CE15013473	1100 WEST AVE	MORGANS HOTEL GROUP MGM	SM 01/07/2016 Notice of violation and fine under case CE15013473 not proven by clear and convincing evidence to be valid. Case DISMISSED.
09/13/2015	09/22/2015	JC16000013	CE15013266	1052 OCEAN DR	OCEAN BLVD LLC	SM 01/07/2016 Notice of violation and fine under case CE15013266 not proven by clear and convincing evidence to be valid. Case DISMISSED.
10/03/2015	10/20/2015	JC16000047	CE15013854	2377 COLLINS AVE	2377 COLLINS RESORT, LP D/B/A 1 HOTEL SOUTH BEACH	SM 02/04/2016
10/07/2015	10/13/2015	JC16000048	CE15014013	600 WASHINGTON AVE	VENTURE SUB LLC	SM 02/04/2016 /

Date of Violation	Request Filed	Special Master Case Number	Code Case Number	Address	Name	Status
10/08/2015	10/13/2015	JC16000049	CE15014026	600 WASHINGTON AVE	ANGIERS VENTURE SUB LLC	SM 02/04/2016
10/07/2015	10/13/2015	JC16000050	CE15014017	600 WASHINGTON AVE	COASTLAND CONSTRUCTION INC	SM 02/04/2016
10/08/2015	10/13/2015	JC16000051	CE15014025	600 WASHINGTON AVE	COASTLAND CONSTRUCTION INC	SM 02/04/2016
10/10/2015	10/16/2015	JC16000052	CE15014096	1701 COLLINS AVE	1701 COLLINS OWNER LLC	Agreed Order submitted. Case removed from agenda for 01/07/2016. Case DISMISSED with Prejudice.
11/03/2015	11/10/2015	JC16000111	CE15014940	1628 COLLINS AVE	NINE BEACH LLC DB/A 9 BEACH	SM 01/21/2016
11/28/2015	12/04/2015	JC16000153	CE15015873	2360 COLLINS AVE	A LOFT SOUTH BEACH	SM 02/18/2016
11/22/2015	12/07/2015	JC16000154	CE15015679	1508 BAY ROAD	JOSEPH MICHEAL MAROCC #N827	SM 03/03/2016
11/27/2015	12/07/2015	JC16000155	CE15015853	1628 COLLINS AVE	NINE BEACH LLC DB/A 9 BEACH	SM 03/03/2016
12/02/2015	12/11/2015	JC16000159	CE15016023	600 WASHINGTON AVE	COASTLAND CONSTRUCTION INC	SM 02/04/2016
01/02/2016	01/08/2016	JC16000205	CE16000111	1701 COLLINS AVE	1701 COLLINS MIAMI OPERATING COMPANY LLC	SM 04/07/2016
01/02/2016	01/08/2016	JC16000206	CE16000117	1701 COLLINS AVE	1701 COLLINS (MIAMI) OPERATING COMPANY,LLC	SM 04/07/2016
01/02/2016	01/12/2016	JC16000207	CE16000112	1717 COLLINS AVE	CHISHOLM PROPERTIES SO BEACH INC	SM 04/07/2016